

EXECUTIVE SECRETARIAT
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1	DCI		X		
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9	Chm/NIC				
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15	D/PAO				
16	SA/IA				
17	AO/DCI				
18	C/IPD/OIS				
19	NIQ/Econ		X		
20	VC/NIC	X			
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		SUSPENSE _____ Date			

Remarks To 20: David Low should provide comments on this, as appropriate, for DCI and DDCI. (DDCI is scheduled to attend this meeting as the DCI is currently scheduled to be out of town).

Executive Secretary

26 Apr 85

Date

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EXECUTIVE SECRETARY

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

85- 1698/1

April 25, 1985

~~SECRET~~MEMORANDUM FOR MR. NICHOLAS PLATT
Executive Secretary
Department of StateMR. EDWARD J. STUCKY
Acting Executive Secretary
Department of the TreasuryCOLONEL R. J. AFFOURTIT
Executive Secretary
Department of DefenseMRS. HELEN ROBBINS
Executive Assistant to the
Secretary
Department of CommerceExecutive Secretary
Central Intelligence Agency

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SUBJECT: Breakfast Meeting on the U.S.-Soviet Joint
Commercial Commission Meetings (C)

There will be a "principals only" breakfast meeting on Saturday, April 27, at 8 a.m., in the White House Situation Room to discuss the U.S.-Soviet Joint Commercial Commission Meetings. The attached policy position paper, prepared by the Department of Commerce, will be discussed at that meeting. (C)

Robert M. Kimmitt
Robert M. Kimmitt
Executive Secretary

cc: The Chief of Staff to the President

Attachment
Tab A Policy Position Paper~~SECRET~~

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REG~~SECRET~~

B219


April 24, 1985

MEMORANDUM FOR ROBERT C. MCFARLANE
Assistant to the President for
National Security Affairs

SUBJECT: Policy Guidance for US-USSR Joint Commercial
Commission Meeting

Basic policy positions on Soviet trade issues were considered by the SIG-IEP and approved by the President in January as part of the preparations for the US-USSR Working Group of Experts meeting. The attached paper has been reviewed at the IG level and represents what we believe to be an updated interagency view of the policy positions and guidance the U.S. delegation should follow in Moscow. (U)

I am asking for NSC or other appropriate Cabinet-level review of the policy positions in the attached paper to ensure they represent a unified and updated Administration view of what the JCC should accomplish and the policy framework in which it is taking place. (U)


Secretary of Commerce

Attachment

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OVERVIEW OF U.S.-SOVIET TRADE ISSUES
FOR JOINT U.S.-U.S.S.R. COMMERCIAL COMMISSION
IN MOSCOW, MAY 20-21, 1985

The purpose of the meeting is to review the objectives and policy positions for the U.S. delegation to the Joint U.S.-U.S.S.R. Commercial Commission (JCC), to be held in Moscow, May 20-21, co-chaired by Secretary Baldrige and Soviet Foreign Trade Minister Patolichev. (U)

Policy positions on Soviet trade issues were considered by the SIG-IEP and approved by the President in January prior to the Working Group of Experts meeting in Moscow, the purpose of which was to lay the groundwork for a JCC meeting. The NSC is being asked to review the policy positions to ensure they represent a unified and updated Administration view of what the JCC should accomplish and the policy framework in which it is taking place. (U)

On energy matters the U.S. delegation will follow the policy set out for the Working Group in NSDD 155 of January 4, 1985 -- "U.S. oil and gas equipment sales should not be an area in which the United States should agree to an active policy of trade expansion pending further policy clarification." If oil and gas export policy is raised by the Soviet delegation, the U.S. delegation will explain our current export control policy. (S)

BACKGROUND

Last year the President indicated his decision to build a more constructive working relationship with the Soviet Union, identifying non-strategic trade as an area where further cooperation might be possible. The President agreed to a 10-year extension of the bilateral Long-Term Agreement to Facilitate Economic, Industrial, and Technical Cooperation. He announced that preparations would begin for a meeting of the JCC, and he approved a meeting of the "Working Group of Experts" to identify areas in which mutually beneficial non-strategic trade could be expanded in conformity with present export control policies and to help determine whether there were sufficient grounds for a meeting of the JCC. (U)

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The Working Group discussions were confined to the non-strategic area, with the U.S. delegation telling the Soviets that the United States was not willing to consider any changes in strategic trade controls. The U.S. delegation also stressed human rights and the fact that neither MPN nor any other fundamental change in the trading relationship could occur in the absence of an increase in emigration. (U)

The U.S. maintained that nevertheless there were opportunities for an expansion of trade. There were non-strategic areas such as food processing where the U.S. was interested in selling, but where the Soviets have curbed U.S. exports by removing U.S. firms from bid lists, curtailing U.S. company promotion efforts, and encouraging a policy of avoiding American products whenever possible. For their part, the Soviets pointed to a variety of U.S. restraints on Soviet exports. (U)

Both sides agreed that while the near-term prospects were not huge, there were opportunities for expanding trade within the confines of present controls and laws, there was mutual interest in increasing trade where possible, and there were concrete actions that could be taken to expand bilateral trade on a mutually beneficial basis. (U)

The Experts Group laid out the parameters for the JCC meeting, with the U.S. side stipulating six issues for discussion, and the Soviets laying out eight. Those issues comprise the framework of the JCC meeting, and NSC concurrence with the positions to be taken by the U.S. delegation is sought. (C)

U.S.-INITIATED ISSUES

These six issues pertain principally to obtaining greater market access for U.S. companies seeking to sell non-strategic goods and services to the U.S.S.R., and were approved as goals by the SIG-IEP meeting in December. (C)

1. Joint Statement in Support of Mutually Beneficial Trade -- In January the Soviets agreed to the concept of a joint statement in favor of expanding bilateral trade. We should seek a statement that will make clear that economic relations cannot be isolated from other elements of the overall relationship; express the support of both sides for expansion of mutually beneficial non-strategic trade in a manner consistent with present laws; and indicate those steps they intend to take to support trade -- including trade exhibitions, business facilitation assistance, and publicizing trade opportunities. A basic purpose of the joint statement is to make clear to Soviet purchasing officials and to U.S. business that both governments encourage efforts to develop new mutually beneficial business. (C)

The draft joint statement is attached. It takes into account all agency views provided to the Commerce Department. (FOUO)

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2. Bid Invitations -- Being invited to bid on projects or contracts is the only way companies have an opportunity to sell in the U.S.S.R. At the Experts meeting the Soviets agreed in principle to reinstitute the provision of bid invitations to U.S. firms. Embassy Moscow reports that they have begun doing so. The U.S. should seek written agreement to put all interested U.S. firms on bid lists. This should be included in the "Joint Statement". We should also seek Soviet agreement that the U.S. Commercial Office in Moscow will be able to participate in the process. (C)

3. Equal Treatment for U.S. Firms -- Soviet Foreign Trade Organizations (FTOs) have maintained de facto discrimination against U.S. firms in non-strategic areas. The U.S. should seek visible Soviet Foreign Trade Ministry action, such as a letter to Soviet FTOs from Minister Patolichev or some other ranking official stating that U.S. firms are not to be discriminated against, and that the proposals of U.S. firms should be given full consideration on the basis of their economic merit. (C)

4. Sign Some Long-Outstanding Contracts -- The U.S. should seek to have the Soviets sign some major long-standing contracts as a firm signal of their intention to do non-strategic business with U.S. firms. In January the Soviets agreed in principle, and since then have signed two or three small contracts (\$5-10 million). We should seek to have some large contracts signed, such as the Abbott baby food plant or International Harvester (Tenneco) combine factory. (C)

5. Agree on Future Project Areas -- The Soviets agreed to discuss a range of industry sectors and specific projects of mutual interest in which the Soviets would then seek U.S. company proposals. While this would not guarantee U.S. companies the contracts, it would provide an inside track for drawing up specs, etc. Beginning with a list of sectors identified by the U.S.-U.S.S.R. Trade and Economic Council, we have told the Council we are interested in exploring projects in nine sectors:

- Agribusiness
- Pulp and paper
- Pollution control
- Textiles
- Land reclamation and irrigation
- Materials handling
- Transportation
- Petrochemicals
- Consumer goods. (C)

We should seek Soviet statements that they will make special efforts in these areas to work with U.S. companies in attempting to develop projects that will be brought to fruition. While this will not

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guarantee business to U.S. firms, it would greatly improve their ability to design projects in ways that would emphasize their competitive strengths. A Projects Working Group would be established under the JCC to monitor progress and seek to maximize U.S. business. The Soviets understand that all such projects will have to be in full compliance with U.S. export control regulations. (C)

6. Soviet Support for USCO -- The Soviets have agreed to terminate their ban on company seminars and exhibitions at the U.S. Commercial Office in Moscow (USCO) and to begin providing the necessary facilitative support, if the Department of Commerce will also reinstitute participation in some Soviet trade fairs. The U.S. would announce its intention to begin an initial promotion program in the U.S.S.R. which would include a small number of trade missions, U.S. exhibits in one or more appropriate Soviet trade fairs, and a full range of solo and multiple exhibitions and seminars at USCO. (C)

In addition, the U.S. should accept the Soviet offer to pay half the cost of a program to help small U.S. companies sell in the Soviet Union. The U.S. should propose that in part this should be in the form of sharing the cost of small business information centers that the Commerce Department would set up in appropriate Soviet trade fairs. We will note that this agreement in no way constitutes a precedent for similar action in the U.S. (C)

A successful program which would generate U.S. sales in the U.S.S.R. requires facilitative assistance on the part of the Soviets, and the U.S. should, on a reciprocal basis, offer to provide appropriate technical facilitation to the Soviets should they desire to commence an export promotion program in the United States. Such assistance would be limited to technical advice on how to use trade fairs in the United States, and would not include any direct marketing assistance to Soviet exporters. (C)

SOVIET-INITIATED ISSUES

1. MFN and Human Rights -- The U.S.S.R. will reiterate its official view at the JCC that human rights and trade should not be linked. At the January Experts meeting the Soviets were told of our serious concerns about Soviet human rights abuses and emigration policy. The U.S. delegation made it clear that there could be no fundamental change in the trade relationship in the absence of major improvement in emigration practice. MFN, export credits, a trade agreement, and other aspects of a fundamentally-improved trade relationship were out of the question unless that happened. (C)

The U.S. delegation should reiterate these serious concerns in the most effective manner possible and should stress that major improvement in Soviet human rights practices must accompany any fundamental improvement in the trade relationship. (C)

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2. Furskin Embargo -- Since 1951 the United States has banned imports from the U.S.S.R. of seven types of furskins. The U.S. has a global trade surplus in furskins, with high quality pelts exported and lower quality pelts imported. A Commerce review of the industry indicates lifting the embargo would have little or no effect on domestic production. The Soviets are seeking elimination of the ban more for political than economic reasons. (C)

In January the President decided to indicate to the Soviets a willingness to discuss with Congress lifting the ban if the Soviets were willing to improve business conditions and prospects for U.S. firms. The Soviets have begun to make such improvements, and preliminary explorations on options for removing the furskins embargo have been held by the Commerce Department with the relevant House and Senate staffs. They indicated the best approach would be for the Administration to introduce legislation to eliminate the ban, and indicated the prospects for passage were good if properly handled. (C)

The U.S. delegation should be authorized to tell the Soviets at the JCC that in return for concrete steps to increase U.S. company access to the Soviet market, the Administration will introduce legislation to eliminate the embargo of the seven Soviet furskins. (C)

3. Nickel Certification -- Under the economic embargo against Cuba, the U.S. banned imports of unfabricated nickel-bearing materials from the U.S.S.R. in December 1983 since the U.S.S.R. imports large amounts of Cuban nickel. The U.S.S.R. was given the opportunity to negotiate a certification arrangement similar to ones negotiated with our allies, but has been unwilling to discuss a government-to-government agreement. At the Experts meeting the U.S. delegation reiterated an offer to consider the relevant Soviet foreign trade organization (FTO) as the signatory if the Soviets would provide a written commitment that the FTO was acting on behalf of the Ministry of Foreign Trade. (C)

The Soviets have not responded positively to the U.S. offer. If the Soviets raise this issue, the U.S. delegation should inform the Soviets that we have already attempted to accommodate certain of their expressed concerns and believe the problem is resolvable if they in turn demonstrate some flexibility. This position is consistent with the view informally communicated by Treasury to the Soviet Embassy representative since the Experts meeting. (C)

4. Aeroflot Landing Rights -- As a result of Afghanistan-, Poland-, and KAL-related sanctions, all scheduled Aeroflot service to the United States and virtually all ties between Aeroflot and the U.S. travel industry have been terminated. In the January Experts Group meeting the Soviets were told that the U.S. was

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willing to begin discussion of civil aviation matters, but only after conclusion of an agreement to improve safety on North Pacific air routes, and with the understanding that any restoration of Aeroflot service would have to be part of a package offering an equitable balance of concessions for U.S. carriers. (C)

Meetings were held in Washington between U.S., Soviet and Japanese representatives on the question of North Pacific air safety February 26 - March 3. These sessions made some progress, but an agreement has not yet been reached. We are hoping to arrange a follow-up meeting in May. The U.S. delegation should reiterate our readiness to enter into civil aviation discussions as soon as North Pacific safety measures are agreed, reminding the Soviets that such negotiations will require an equitable balance of economic benefits. (C)

5. Port Access Regulations -- The Soviets seek relief from the port access regulations imposed upon them following termination of the bilateral maritime agreement and the imposition of martial law in Poland, and particularly for their grain vessels seek easing of the requirement for 14-day advance requests before being given permission to enter U.S. ports. Under the expired maritime agreement, from 1974 to 1981 Soviet vessels were required to make only 4-day advance requests. (C)

U.S. agribusiness is concerned that the current policy has an adverse effect on U.S. grain exports to the U.S.S.R. The U.S. maritime industry, however, believes that the 4-day notification is their principal leverage on the Soviets in getting a new maritime agreement with reciprocal benefit for the U.S. industry. (C)

Up until January, as a Poland-related sanction, the United States was unwilling to hold maritime discussions. During the January Experts meeting, the Soviets were told that the United States was willing to consider a change in port notification requirements as part of an overall discussion of maritime issues within our traditional maritime framework, and that such discussions would have to encompass U.S. maritime interests. The Soviets noted this offer with great interest in Moscow and made a follow-up inquiry in Washington, but have not responded. (C)

The U.S. should inform the Soviets in advance of the JCC that we are willing to include a Maritime expert on our delegation to have an exchange of views on the parameters of a possible maritime agreement. (C)

6. Tax Protocol -- A tax protocol amending various provisions of the U.S.-U.S.S.R. income tax treaty was agreed to in May 1981, but not signed. Among other matters, the protocol addressed Soviet concerns regarding U.S. tax treatment of Soviet employees of Aeroflot. A compromise was worked out under which such employees

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would pay back income taxes and interest, but would be exempt from social security and unemployment taxes retroactive to 1976, when the basic treaty took effect. Changes in tax laws since 1981 would have to be reflected in any new protocol, and it may be very difficult to make refunds from the Social Security Trust Fund. (C)

The Soviets were told in January that the United States was willing to move forward on the unsigned protocol, but that changes may have to be made. No response has been received from the Soviets, and no further U.S. action should be taken other than to reiterate the January offer. (C)

7. Supplier Reliability -- The Soviets want a discussion of this at the JCC meeting. The U.S. delegation should explain the meaning of the contract sanctity provisions of the Export Administration Amendments Act, which passed the House and is awaiting Senate action. The Act contains two "contract sanctity" provisions. As to agricultural commodities, forest products and fisheries products, short supply export restrictions will not apply to any contract to export which was entered into before the date on which the controls are imposed. (C)

The Export Administration Amendments Act also contains a general contract sanctity provision applicable to controls imposed in the future on foreign policy grounds. The President is forbidden to prohibit or curtail the export or reexport of goods, technology or other information unless he determines and certifies to Congress that there exists a breach of the peace which poses a serious and direct threat to the strategic interest of the United States. (C)

These contract sanctity provisions would not apply to new controls imposed under other authority (national security provisions of the EAA, the International Emergency Economic Powers Act, or new legislation), but the recent legislative action on the subject will have a restraining influence on the exercise of such other authorities. (C)

8. Antidumping -- Not currently an issue. The January Experts Group conducted a seminar for Soviet officials addressing Soviet concerns and their inadequate understanding of U.S. law and practice. The Soviet potash case was terminated in March, because the International Trade Commission found that U.S. potash producers were not being materially injured. In April, Commerce issued the Administrative review of the antidumping order on titanium sponge, finding a margin of 83.96 percent. The result was based on the best information available because the Soviet exporter submitted an inadequate response to our questionnaire. (C)

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Drafted by: Commerce/ITA/EUR: 4-16-85/Revised 4/24/85

Clearances:

Commerce/TA:	DSchlechty, 4/23/85
	GKaplan, 4/24/85
Commerce/TD:	HMisisco, 4/23/85
Commerce/GC:	CNovelli, 4/24/85
Commerce/CA:	GMcKiernan, 4/24/85
Agriculture:	LSebranek, 4/23/85
State/EB:	EHurwitz, 4/24/85
State/EUR:	DKursch, 4/23/85
Transportation:	RBourdon, 4/23/85
	CHeckman, 4/24/85
Treasury:	GClapp, 4/22/85
	MMuench, 4/24/85
USTR:	RJohnson, 4/23/85

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DRAFT 4/23/85

**JOINT STATEMENT
REGARDING U.S.-U.S.S.R. TRADE**

The following statement was issued by U.S. Secretary of Commerce Malcolm Baldrige and Soviet Minister of Foreign Trade Nikolai Patolichev, at the end of the US-USSR Joint Commercial Commission meeting in Moscow, May 21, 1985:

The governments of the United States and the Soviet Union believe that mutually-beneficial trade can make a significant contribution to a more constructive overall relationship. They also recognize the economic benefits of peaceful trade. Accordingly, both sides support the development and expansion of such trade between the two countries.

Each also recognizes that respect for the concerns of the other, including those outside the field of economic relations, are required for trade to make its full contribution. Each will consider future steps toward improving conditions for a fuller trade relationship, and will consult with the other.

Both agree, however, that currently there are opportunities to increase mutually-beneficial trade and economic cooperation. Noting the positive results and the anticipated further gains in agricultural trade, both sides will take steps to expand commerce in nonstrategic industrial goods and services.

These steps will include the removal of obstacles to trade expansion where possible and consistent with the laws and regulations of each country. Both sides will encourage firms and organizations to explore prospects for expanding peaceful trade. Each government will initiate an official program of trade exhibitions as appropriate, and will encourage purchasing officials and buyers to visit the other's exhibitions.

The U.S. government is interested in American companies serving as suppliers for appropriate Soviet projects under the upcoming 12th five-year plan. The Soviet government agrees that all interested American firms will have full opportunity to bid on Soviet projects and purchases open to Western participation, and will have access to Soviet trade and purchasing officials.

Each government intends the expansion of trade and economic cooperation to reflect its own laws, national security, and vital interests and recognizes that it is reasonable for each side to restrict its exports for these reasons. Accordingly, both sides agree to focus their economic expansion activities on sectors where such concerns will be minimal.

Controlled by: Franklin J. Vargo
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THE WHITE HOUSE

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FROM

ROBERT KIMMITT

456-2224

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Breakfast Meeting on the U.S.-Soviet
Joint Commercial Commission Meeting NSC LOG #

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Helen Robbins

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REMARKS

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